



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

O

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. Both parties attended the hearing and had opportunity to be heard.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Has the tenant filed his application on time, or were there exceptional circumstances that prevented him from filing on time?

Background and Evidence

The landlord served the tenant with a notice to end tenancy for cause on February 04, 2013. The notice was served in the appropriate two page format. The tenant agreed that he received the two page notice from the landlord in person on February 04, 2013.

The tenant testified that he was not aware that the timeline of ten days within which he could dispute that notice, started from the date of receipt of the notice. Other than the above testimony, the tenant did not have any evidence to support the reason for not making application within the legislated time.

Analysis:

Under section 47(4) of the Act, the tenant had to dispute the notice within 10 days, or by February 14, 2013. The tenant filed his application on February 18, 2013, which four days past the time required by the *Act* to file it. Based on the above, I find the tenant failed to file his application to dispute the notice, in a timely manner.

Policy guideline 36 for the *Act* sets out that an Arbitrator may extend or modify a time limit **only in exceptional circumstances**. The guideline explains the word "exceptional" means that an ordinary reason for a party not having complied with a particular time limit will not allow an Arbitrator to extend that time limit.

The word "exceptional" implies that the reason for failing to do something by the required time must be very strong and compelling. Furthermore, a "reason" without any force of persuasion is merely an excuse. Therefore, the party putting forward said "reason" must have some persuasive evidence to support the truthfulness of what is said.

I find the tenant had insufficient evidence of a strong or compelling reason, or of exceptional circumstances, which would allow me to extend a time limit established by the *Act*.

Therefore, during the course of the hearing I dismissed the application of the tenant. When the tenant's application was dismissed the landlord orally requested an order of possession effective two days after service on the tenant. Under section 55 of the Act, I must grant that request. I grant and issue the Landlord an order of possession effective two days after service on the tenant. This order may be enforced in the Supreme Court of British Columbia.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 14, 2013

Residential Tenancy Branch

